

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID C. LODA

Appeal 2007-3002
Application 10/082,958

ORDER DENYING HEARING

On June 26, 2006, Appellant filed an Appeal Brief which included fees for both the Appeal Brief and an Oral Hearing. Appellant's request for an oral hearing is hereby denied. 37 CFR § 41.73 sets forth the requirements for the request for an oral hearing and is reproduced below.

§ 41.73 Oral hearing.

(a) An oral hearing should be requested only in those circumstances in which an appellant or a respondent considers such a hearing necessary or desirable for a proper presentation of the appeal. An appeal decided on the briefs without an oral hearing will receive the same consideration by the Board as an appeal decided after an oral hearing.

(b) If an appellant or a respondent desires an oral hearing, he or she must file, as a separate paper captioned "REQUEST FOR ORAL HEARING," a written request for such hearing accompanied by the fee set forth in § 41.20(b)(3) within two months after the date of the examiner's answer. The time for requesting an oral hearing may not be extended. . . .

Since Appellant's request for oral hearing was not filed in a separate paper as required by 37 C.F.R. § 41.73, Appellant's request cannot be granted.

If Appellant still desires an oral hearing, a petition under 37 C.F.R. § 1.183 must be filed within two weeks of the mail date of this notice. Such a petition must include (1) a request to suspend the separate paper requirement of 37 C.F.R. § 41.73, (2) a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement of 37 C.F.R. § 41.73 be suspended or waived, and (3) be accompanied by the petition fee set forth in 37 C.F.R. § 1.17. This two-week time period for filing a petition under 37 C.F.R. § 1.183 is not extendable under 37 C.F.R. § 1.136(a). The failure to timely file a petition under 37 C.F.R. § 1.183 will result in the appeal being decided without an oral hearing (i.e., on brief).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: _____
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN:clj

Barry L. Kelmachter
BACHMAN & LaPOINTE, P.C.
Suite 1201
900 Chapel Street
New Haven, CT 06510-2802

